



North Gallatin Canyon Zoning Regulations

Adopted: _____, _____, 2009

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ARTICLE I: GENERAL PROVISIONS

Section 1 Title, Creation and Adoption.

- 1.01** These Regulations shall be known as the North Gallatin Canyon District Regulations (“Regulations”). It is adopted for the North Gallatin Canyon Zoning District (“District”), which was adopted on ____.
- 1.02** These Regulations are adopted pursuant to § 76-2-201, MCA, *et seq*, in accordance with the *Gallatin County Growth Policy* (“*Growth Policy*”).
- 1.03** Copies of these Regulations and official Zoning Map are on file for public inspection with the Gallatin County Clerk and Recorder’s Office and the Gallatin County Planning Department (“Planning Department”).

Section 2 Purpose and Intent of Regulations.

- 2.01 Purpose.** The purpose of the North Gallatin Canyon Zoning District is to promote and preserve the unique rural and scenic resources of the Gallatin Canyon. The District also supports and implements the Growth Policy, specifically Goal 3.11, "Conserve Scenic Resources and Views".
- 2.02 Intent.** These Regulations have been made in accordance with the Growth Policy (adopted April 15, 2003) for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with MCA §76-2-203, these Regulations are designed to:
1. Secure safety from fire and other dangers.
 2. Promote public health, public safety, and the general welfare; and
 3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
 4. Give reasonable consideration to the character of the District and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land.

Section 3 Application of Regulations.

- 3.01 Minimum Requirements.** The requirements established by these Regulations are minimum regulations and apply uniformly to each class or kind of structure as indicated throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.

3.02 Zoning Regulation Compliance. All new construction is potentially subject to the provisions of these Regulations. Property owners are responsible for ensuring all activity within District boundaries conforms to these Regulations.

3.03 Exception. Under certain circumstances, the Zoning Enforcement Agent may exempt public utility pipelines, wells, or structures necessary for provision of services required for public health and safety, from provisions of these Regulations.

3.04 Vesting. An application made within the District is subject to the regulations in effect at the time the application is submitted.

3.05 Contradictions. These zoning regulations do not supersede, replace, or modify covenants or deed restrictions attached to the land within the District. If the requirements of these Regulations conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive (or higher standard) shall govern.

3.06 Interpretations. The Zoning Enforcement Agent, Code Compliance Specialist, Gallatin County Planning Board (“Planning Board”), and Gallatin County Commission (“Commission”) can make official interpretations of the North Gallatin Canyon Zoning District zoning Regulations, boundaries, and map. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Commission shall determine the appropriate classification of that use.

In interpreting a use classification, the Commission shall consider the matter in an office meeting and determine that the use:

1. Is compatible with the uses permitted in the District.
2. Is similar to one or more uses permitted in the District.
3. Will not adversely affect property in the neighborhood or the District.
4. Will not abrogate the intent of the Growth Policy or these Regulations.

3.07 Natural Resources. Except as provided under § 76-2-206 and § 76-2-209, MCA, and as authorized by the provisions of a zoning district, these Regulations may not prevent the complete use, development, or recovery of a mineral, forest, or agricultural resource.

Section 4 Description of Zoning District Jurisdiction.

4.01 Legal Description. The boundaries of NGC Zoning District shall include the following Sections and Sub-Sections of Township 4-South, Range 4-East of Gallatin County:

Section 5	All land west of the Kleinschmidt Canal
Section 8	the West ½ of the Southwest ¼; the Northwest ¼; and the Northwest ¼ of the NE ¼
Section 7	All
Section 17	All
Section 18	All
Section 19	All
Section 20	All
Section 28	All
Section 29	East ½; the Northeast ¼ of the Northwest ¼
Section 33	All

Section 5 Establishment of Zoning Districts and Official Zoning Map.

5.01 Zoning District. These Regulations apply to the **North Gallatin Canyon Zoning District** adopted herein, all as shown on the official Zoning Maps, and as explained in these Regulations.

5.02 Official Zoning Map. The official Zoning Map shall be available in the Office of the Gallatin County Clerk and Recorder and shall bear certificate with the signature of the Chairman of the Commission attested by the Clerk and Recorder, and the date of adoption of the official Zoning Map. If any changes to the official Zoning Map are made by amendment of these Regulations in accordance with Art. II, Sect. 5 hereof, such changes shall be made to the official Zoning Map and signed, dated and certified upon the map or upon documentation attached thereto.

5.03 Interpretation of Map Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines. Boundaries indicated as approximately following city limits shall be construed as following such city limits. Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s). Boundaries indicated as following the centerline of streams, rivers, canals, or ditches shall be construed to follow such centerlines. Boundaries indicated as parallel to or extensions of features indicated on the official Zoning Map shall be determined by the scale of the map.

Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or where other circumstances or controversy arise over district boundaries, the Zoning Enforcement Agent shall interpret the district boundary; such interpretation may be subject to appeal to the applicable Board of Adjustment.

Section 6 Invalidation and Severability

- 6.01** If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of these Regulations, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these Regulations to render the same operative and reasonably effective for carrying out the purposes and intentions of these Regulations.

ARTICLE II: ADMINISTRATION

Section 1 Administration

1.01 Zoning Enforcement Agent. The Zoning Enforcement Agent supervises and enforces the provisions of these Regulations pursuant to MCA §76-2-210. This consists of, but is not limited to, issuing permits, enforcing corrections of violations, and reviewing applications for variances, re-zoning requests, and amendments to these Regulations.

1.02 Code Compliance Specialist. The Code Compliance Specialist ensures compliance with the provisions of these Regulations in conjunction with the Zoning Enforcement Agent. This consists of, but is not limited to, revoking permits, issuing cease and desist orders, requiring removal/dismantling of structures, determining compliance with these Regulations, and issuing fines. All decisions made by the Code Compliance Specialist follow the same administrative and appeals procedures as that of the Zoning Enforcement Agent.

1.03 Advisory Committee. The Commission may create a non-remunerative advisory committee, of up to five (5) members, to make recommendations within the District. Advisory Committee members must be freeholders in the District. Advisory Committee members are appointed for two- (2) year staggered terms. Initially, two (2) members are appointed for one- (1) year terms and three (3) members are appointed for two- (2) year terms.

Advisory Committee recommendations are advisory only and are not binding upon the Commission. Advisory Committee meetings are open to the public and noticed accordingly. The Advisory Committee may also notify the Zoning Enforcement Agent of alleged violations within the District.

1.04 Board of Adjustment. The Commission shall appoint a five-member Board of Adjustment (BOA). The role of the BOA is:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.
2. To hear and decide variances (special exceptions) to these Regulations that will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these Regulations will result in an unnecessary hardship, and so that the spirit of these Regulations is observed and substantial justice done.
3. In exercising the above mentioned powers, the BOA may, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or administrative determination made by the Planning Director appealed. The BOA may make such order, requirement, decision, or determination as ought to be made and to that end shall have all of the powers of the officer from whom the appeal is

taken, (MCA §76-2-223). The concurring vote of three members of the BOA shall be necessary to grant a variance, reverse any order, requirement, decision, or determination of any such administrative official (MCA §76-2-224).

1.05 County Planning Board. The 11-member Gallatin County Planning Board (“Planning Board”) consists of resident freeholders serving in an advisory capacity to the Commission. The Planning Board’s role is to make recommendations on the revision of boundaries and the amendment of regulations (MCA §76-2-204 and MCA §76-2-205).

1.06 Schedule of Fees. The Commission sets fees for all applications, including but not limited to Sign Permits, zone changes, official interpretations, and Variances. Neither the Zoning Enforcement Agent nor the Commission may take action on an item until fees are paid in full. The Zoning Enforcement Agent may establish policies for the refund of fees.

Section 2 Non-Conforming Uses and Structures

2.01 Intent. Within the districts established by these Regulations, there exist land uses and structures which were lawful before these Regulations were adopted or amended, but which would be prohibited, regulated or restricted under terms of these Regulations or future amendments. It is the intent of these Regulations that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the District.

Non-conforming uses are declared by these Regulations to be incompatible with allowed uses in the District. However, to avoid undue hardship, nothing in these Regulations shall be deemed to require a change in the plans, construction or designated use of any structure on which actual construction lawfully began prior to the effective date of adoption or amendment to these Regulations. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building, such excavation or demolition or removal shall be deemed to be actual construction. Any such building construction so allowed must be carried on diligently and completed in a timely manner.

2.02 Non-Conforming Land Uses. Where at the time of the adoption of these Regulations lawful land uses exist which would not be permitted by these Regulations, the use may be continued, except for Outdoor Advertising Signs as provided for in Article III Sect. 3.02.2.3, so long as it remains otherwise lawful, provided:

2.02.1 A legal non-conforming use shall not be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these Regulations.

2.02.2 A legal non-conforming use shall not be moved in whole or in part to any portion of the lot or parcel not occupied by such use at the effective date of adoption or amendment of these Regulations.

2.02.3 If any such non-conforming land use ceases for any reason for a period of more than 24 months, any subsequent land use shall conform to these Regulations. If a seasonal non-conforming land use ceases for two (2) consecutive seasons, then subsequent land use shall conform to these Regulations.

2.02.4 Any non-conforming land use superseded by a conforming use shall thereafter conform to these Regulations and the non-conforming use may not thereafter be resumed.

2.03 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of these Regulations that could not be built under the terms of these Regulations by reason of restriction on parcel, area, height, its location on the parcel, or other requirements concerning the structure, such structure may continue to exist, except for Outdoor Advertising Signs as provided for in Article III Sect. 3.02.2.3, so long as it remains otherwise lawful, subject to the following provisions:

2.03.1 A legal non-conforming structure shall not be altered or enlarged in any way, which increases its non-conformity however, any structure or portion thereof may be altered to decrease its non-conformity without approval from the Commission.

2.03.2 Should such non-conforming structure or non-conforming portion of a structure be destroyed by a catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the Commission. Any use or structure which is not substantially the same as the original use or structure shall conform with the applicable provisions of these Regulations and applicable federal, state, and local building codes.

2.03.3 Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to these Regulations.

2.03.4 Any legal non-conforming structure altered to conform to the regulations of the District shall thereafter remain in conformance with these Regulations.

2.03.5 On any non-conforming structure or portion of the structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to the extent not to exceed 15 percent of the replacement value of the building in any one (1) year, provided that such work does not increase the cubic content of the building. The 15 percent does not apply to an interior or exterior remodeling that does not increase the cubic content or increase the building footprint of the structure. Nothing in these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.

2.04 Non-Conforming Signs. Any sign in existence on the date of the adoption of these Regulations not in conformance with these Regulations shall either be eliminated or brought into conformance within three years from the date of adoption. Outdoor Advertising Signs are non-conforming under Article III Sect. 3.02.2.3, and shall be eliminated no later than the expiration of the current term of the Montana Department of Transportation Outdoor Advertising Sign Permit in force on the date of adoption of these Regulations. Non-conforming signs are further subject to the following requirements:

2.04.1 No action shall be taken to increase a sign's non-conformity. Changes in the information on the face of an existing non-conforming sign are allowed.

2.04.2 When any change, repair, or maintenance of an existing non-conforming sign would constitute an expense of more than 25% of the original cost of the sign, such non-conforming sign shall either be eliminated or brought into conformance.

For "Outdoor Advertising Signs" regulated by the Montana Department of Transportation, "Original Cost" shall mean the "Estimated Cost of Construction" listed in the Department of Transportation Outdoor Advertising Permit Application for the sign.

2.05 Determination of Status of Non-Conforming Land Uses, Structures, and Signs.

It shall be the responsibility of the Zoning Enforcement Agent and Code Compliance Specialist to determine the status of non-conforming land uses, structures, and signs. If the Zoning Enforcement Agent determines that a non-conforming land use, structure, or sign meets the applicable criteria in these Regulations, the land use, structure, or sign shall be given approved non-conforming status. The following procedures shall be followed to determine the status of non-conforming land uses, structures, and signs.

2.05.1 Upon notice to the Planning Department of the possible existence of a non-conforming land use, structure, or sign, the Zoning Enforcement Agent/Code

Compliance Specialist shall investigate the possible non-conforming land use, structure, or sign, and shall provide a notice of preliminary status to the owner of the land, structure, or sign.

2.05.2 In the event that the Zoning Enforcement Agent/Code Compliance Specialist has found the land use, structure, or sign to be non-conforming, the owner of record of the subject land use, structure, or sign may make an application for a determination of approved non-conforming status to the Planning Department.

2.05.3 It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Zoning Enforcement Agent/Code Compliance Specialist with a preponderance of supporting information. Such information shall include, but not be limited to, septic or sewer hook-up permits, building permits, business licenses, knowledge of the past history of the site and dated photographs.

2.05.4 The Zoning Enforcement Agent/Code Compliance Specialist shall determine on a case-by-case basis whether a land use, structure, or sign:

1. is non-conforming under these Regulations,
2. has complied with the Regulation's requirements for non-conforming land use, structures, or signs,
3. shall or shall not be granted approved non-conforming status, and
4. the term and/or conditions of the approved non-conforming status.

2.05.5 Appeals of the Zoning Enforcement Agent/Code Compliance Specialist's decision may be made in accordance with the provisions of the Appeals Process, Section 7.

2.05.6 The Planning Department shall maintain a record of approved non-conforming land uses, structures, or signs, and the term and conditions of their approved status.

Section 3 Permits

3.01 Land Use Permits. Land Use Permits are not required prior to conforming land uses within the District.

3.02 Construction Permits. Construction Permits are not required prior to construction of conforming structures within the District.

3.03 Conditional Use Permits. Conditional Use Permits are not required prior to conforming conditional land uses within the District.

3.04 Sign Permits. Sign Permits are required prior to the erection of certain signs within the District.

3.04.1 Signs Requiring a Sign Permit. The construction or development of a new Permanent Sign or the addition to or replacement of an existing Permanent Sign more fully defined under Article III, Sect. 3.02.1.1 requires a Sign Permit prior to erection. No other signs require permits.

3.04.2 Permit Application. Sign permits may be obtained by application to the Planning Department, and payment of the appropriate fee.

3.04.3 Expiration. Sign permits expire if building or work authorized by the permit has not commenced within six (6) months from the original permit date and if work authorized by the permit is not completed within twelve (12) months of the original permit issuance date. A new sign permit is required before work is re-commenced.

Section 4 Variances

4.01 Intent. It is the intent of this section to provide a process for relief from the occasional inequities created by the physical standards of these Regulations when such standards create a substantially unequal burden on a particular parcel of land in a fashion that would otherwise prevent the reasonable use of the property owing to physical circumstances unique to that parcel. In addition, the intent of this section is to prohibit the granting of variances that would be contrary to the public interest and endanger public health, safety and welfare. No variance shall be granted to allow the use or development of property for a purpose not authorized within the zone in which the proposed development would be located.

4.02 Criteria. In granting a variance, the Board of Adjustment (“BOA”) shall issue findings setting forth factual evidence that the variance:

4.02.1 Will observe the intent and purpose of these Regulations, including the Growth Policy, and do substantial justice.

4.02.2 Will not be injurious to the public health, safety, and general welfare.

4.02.3 Will not be contrary to and will serve the public interest.

4.02.4 Is necessary, owing to conditions unique to the property, to avoid unnecessary hardship which would unavoidably result from the enforcement of the literal meaning of these Regulations:

1. Hardship does not include difficulties arising from actions, or otherwise be self-imposed, by the applicant or previous predecessors in interest, or potential for greater financial returns; and
 2. Conditions unique to the property may include slope, presence of watercourses, after-the-fact imposition of additional regulations on previously lawful parcels, and governmental actions outside of the owner's control; and
 3. Is the minimum relief necessary to provide reasonable use of the property.
- 4.03 Procedure.** All variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter shall be scheduled before the BOA, and the BOA shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate the affects of the variance. The concurring vote of three members of the BOA shall be necessary to decide in favor, wholly or partly, of any variance from these Regulations.
- 4.04 Notice.** Notice of the public hearing shall be published at least once fifteen (15) days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

Section 5 Amendments

- 5.01 Intent.** These Regulations and the boundaries of the zoning map may be amended or revised whenever the public health, safety and general welfare requires such amendment. Amendments shall follow the procedure prescribed by MCA §76-2-201 et seq.), and set forth herein.
- 5.02 Procedure.** An amendment may be initiated by submittal of one of the following to the Planning Department:
- 5.02.1** The petition of one or more landowners in the District. The petition shall be filed on the required application and accompanied by the required fee; or
 - 5.02.2** Resolution of Intention of the Commission.
 - 5.02.3** Resolution of Intention of the Planning Board.
- 5.03 Planning Board.** The Planning Board shall make recommendations on the revision of boundaries and the amendments of these Regulations to the Commission.
- 5.04 Hearing.** The Commission shall consider all proposed amendments at a public hearing. The County Commission may adopt the amendment in accordance with the procedure prescribed by § 76-2-205, MCA.

- 5.05 Notice.** Notice of the public hearing on a proposed amendment shall be published in a newspaper of general circulation pursuant to § 76-2-205, MCA.

Section 6 Appeals

- 6.01 Appeal from Zoning Enforcement Agent/Code Compliance Specialist.** The BOA shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination by the Zoning Enforcement Agent/Code Compliance Specialist, and reverse or affirm, wholly or partly, or modify the order, decision, or determination of the Zoning Enforcement Agent/Code Compliance Specialist.

6.01.1 An appeal from any final order, decision, or determination of the Zoning Enforcement Agent/Code Compliance Specialist may be made to the BOA within 30 days after the decision is filed and served or, in the case of official interpretations of these Regulations and/or the official Zoning Map, within 30 days from the official interpretation. The appeal must be submitted to the Zoning Enforcement Agent/Code Compliance Specialist via certified mail or hand delivery, be accompanied by the appeal fee as established by the Commission, and state the basis for the appeal.

6.01.2 Upon receipt of appeal, a public hearing shall be scheduled before the BOA. Notice of the public hearing shall be sent to adjacent property owners via certified mail, and be published in a newspaper of general circulation at least once fifteen days prior to the hearing.

- 6.02 Appeal from Board of Adjustment.** Pursuant to MCA § 76-2-227 and 76-2-228, a decision from the BOA may be appealed to the Eighteenth Judicial District Court within 30 days from the date the decision is filed in the office of the board.

- 6.03 Appeal from County Commission.** Pursuant to MCA § 76-2-227 and 76-2-228, a decision from the Commission may be appealed to the Eighteenth Judicial District Court within 30 days from the date the decision is filed in the office of the board.

Section 7 Complaints and Enforcement

- 7.01 Complaints.** Any person may file a signed, written complaint with the Zoning Enforcement Agent/Code Compliance Specialist addressing an alleged violation of these Regulations. The complaint shall fully describe the facts supporting the complaint.

7.01.1 Upon receipt of a complaint or discovery of an alleged violation upon its own initiative, the Zoning Enforcement Agent shall investigate an alleged violation, and determine if a violation exists. If the Zoning Enforcement

Agent determines a violation exists, they shall take action to resolve the violation.

7.01.2 The name of the person filing the complaint may remain confidential until the violation is remedied and/or there is a public hearing on the matter.

7.02 **Investigations.** When investigating an alleged violation, the Zoning Enforcement Agent shall review these Regulations and other applicable information, regulations, rules or laws regarding the alleged violation. The Zoning Enforcement Agent may inspect the alleged violation from public right-of-way, from a neighboring property or the site itself if permission has been granted for the inspection. Permission for access is assumed in the event an alleged violator has a permit application pending with the Zoning Enforcement Agent. The investigator shall document the inspection with written notes and/or photographs as appropriate.

7.03 **Administrative Remedies.** If the Zoning Enforcement Agent determines that any of the provisions of this title are being violated, including conditions of approval for any permit, they may pursue enforcement remedies provided by law. The Zoning Enforcement Agent shall notify an alleged violator in writing of the corrective action necessary to remedy the violation.

7.03.1 The Zoning Enforcement Agent shall: (i) revoke any Permit; (ii) issue orders to obtain after-the-fact permits; (iii) issue cease and desist orders requiring cessation of any building, moving, alteration or use which is in violation of these Regulations, (iv) require mitigation and/or corrective action, which may include orders to dismantle or remove noncompliant Structures to remedy the violation; and/or (v) take any other action authorized by these Regulations and law to insure compliance with, or prevent violation of its provisions.

7.03.2 Persons liable for violations and compliance with any order, determination, decision, fine, penalty, proceeding, and remedial action shall include without limitation, any and all owners, tenants, leaseholders, builders, contractors, architects, agents or other persons or entities that commits, maintains, participates, assists, causes or contributes to such violation; hereinafter "persons."

7.03.3 The owner of any land, Structure, Sign, premises, or part thereof, shall be held liable for any and all violations, remedies, remedial actions, fines, penalties, enforcement actions or proceedings, and shall be required to comply with any order, determination and decision of the Zoning Enforcement Agent. In addition to the owner, any person as defined herein shall each, jointly and severally, be held liable for any and all violations, remedies, remedial actions, fines, penalties, enforcement actions or proceedings, and shall be required to comply with any order, determination and decision of the Zoning Enforcement Agent.

7.03.4 Gallatin County and/or the Zoning Enforcement Agent shall have the right to proceed or take action jointly or severally against any or all persons, and the failure to proceed or take action against any person or persons shall not constitute a waiver of any rights or remedies whatsoever against any person or persons.

7.04 **Civil Fine.** The Zoning Enforcement Agent may assess violators an administrative fine of up to \$500.00 per violation. Each day of violation may be considered a separate offense. When determining the amount and duration of the fine, the Zoning Enforcement Agent shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. If the fine is not paid, it shall become a lien upon the property.

7.05 **Criminal Penalty.** A violation of these Regulations, any conditions imposed through the authority of these Regulations, or any Variance granted through these Regulations shall constitute a misdemeanor. A person convicted of a violation under this Section shall be punished by a fine not exceeding \$500.00 or imprisonment in the county jail not to exceed six months, or both.

7.06 **Injunction.** The Commission, through the County Attorney or otherwise, may bring an action in the name of Gallatin County in the District Court to enforce these Regulations, which may include without limitation injunctive relief.

7.07 **Remedies, Cumulative.** The remedies provided for herein shall be cumulative and not exclusive. The failure to enforce any provision(s) of these Regulations does not constitute a waiver of those provisions.

ARTICLE III: ZONING STANDARDS

Section 1 Purpose.

- 1.01 Purpose.** This Article establishes the zoning standards specifically applicable to the North Gallatin Canyon Zoning District. The purpose of the District is to promote and preserve the unique rural and scenic resources of the Gallatin Canyon. The District also supports and implements the Growth Policy, specifically Goal 3.11, "Conserve Scenic Resources and Views".

Section 2 Land Uses.

- 2.01 Uses Allowed By Right.** All land uses are allowed in this zoning district except Outdoor Advertising Signs per Sect. 3.02.2.3.
- 2.02 Density.** There shall be no minimum lot area or width.
- 2.03 Subdivision** Landowner's must receive approval from the Gallatin County Commission to subdivide property pursuant to the Gallatin County Subdivision Regulations.
- 2.03.1** Condominium developments are subject to subdivision approval by the County pursuant to MCA § 76-3203.
- 2.03.2** Subdivisions exempted under Montana Statutes are exempted under these Regulations pursuant to MCA § 76-3201 and 76-3207.

Section 3 Development Standards.

- 3.01 Development Standards.** The construction or development of all new Structures, or the addition to an existing Structure of more than 50% of the internal square footage of the existing Structure, shall comply with the standards listed herein. Proposed structures that would not be in conformance with these standards may deviate from these standards by obtaining a Variance from the Commission following the procedures and criteria of Art. II, Sect. 4.
- 3.01.1 Height.** Unless otherwise excepted by this Section, the height of all new Structures shall be limited to 40 feet as measured from the lowest point of the finished grade to the highest structural point of the roof.
- 3.01.1.1 Agricultural Structures:** The construction of a new Agricultural Structure or the addition to an existing Agricultural Structure is not subject to the height limit.

3.01.1.2 Wind Driven Electrical Generating Facilities: The construction or development of wind driven electrical generating facilities that provide direct service to a Structure or group of Structures on the same or adjacent tract(s) of record are not subject to the height limit.

3.01.2 Setbacks. Unless otherwise excepted by this Section, all Structures shall be set back from property lines a minimum of five (5) feet and must be located outside of any existing easements of record (utility, road, access, irrigation, pipelines, etc...).

3.01.2.1 Accessory Structures: The construction of a new Accessory Structure or the addition to an existing Accessory Structure is not subject to the setback requirement.

3.01.2.2 Decks: The construction of a new Deck or the addition to an existing Deck is not subject to the setback requirement, but must be located outside any existing easements of record (utility, road, access, irrigation, pipelines, etc...).

3.01.2.3 Fences/Walls: The construction or development of a fence or wall may be built directly on the property line and is not subject to the setback requirement.

3.02 Signs. The following standards apply to all signs in the NGC District:

3.02.1 Signs Allowed By Right. The following signs shall be allowed by right.

3.02.1.1 Permanent Signs with no more than 120 total square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than 24 feet above the existing grade. For signs consisting of multiple elements supported by a single structure, the total square footage of the sign shall be the sum of the square footages of each individual element.

For example; a sign assembly consisting of an oval element 8' wide by 4' tall (32 sq. ft.) and a rectangular element 6' wide by 4' tall (24 sq. ft.) enclosed within an open supporting structure 10' wide by 17' high, shall be considered to be 56 sq. ft. per side (32' + 24').

3.02.1.2 Off-site directional signs of no more than 16 square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than 10 feet above the existing grade. Off-site directional signs shall carry only plain text

messages and directional arrows, and shall be associated only with businesses or properties within the North Gallatin Canyon Zoning District.

- 3.02.1.3** Temporary Signs, including, but not limited to, banners, sandwich boards, yard signs, real estate signs, “For Sale” signs, and political signs with no more than 120 total square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than 24 feet above the existing grade.

For example, a 14’ wide by 10’ high sign painted on the side of a truck would not be allowed as it would exceed the size restriction.

- 3.02.1.4** Government or official signs and notices.

3.02.2 Prohibited signs. The following signs are prohibited:

- 3.02.2.1** Signs that contain, include, or are illuminated by a flashing, intermittent, or moving light or lights, except those giving public service information such as the time, date, temperature, weather, or similar information..

- 3.02.2.2** Signs constituting a nuisance or traffic hazard.

- 3.02.2.3** Off-premise Outdoor Advertising Signs.

3.02.3 Placement of Signs. All signs must be placed on the premises of the landowner or the business associated with the sign, only excepting off-site directional signs described in **3.02.1.2**.

- 3.02.3.1** Permanent Signs are subject to the setback requirements of **3.01.2**

- 3.02.3.2** No sign shall be placed in or over any public right-of-way.

- 3.02.3.3** No sign shall be placed where it creates a traffic safety hazard.

For example, by obscuring traffic control signs or obstructing vision at intersections or driveways.

- 3.02.4 Sign Illumination.** Signs may be internally illuminated, illuminated by neon tubes, or illuminated by external fixtures.

3.02.4.1 Lighting fixtures must be selected, located, aimed, and shielded so that illumination is focused exclusively on the face of the sign, and away from adjoining properties, the public right-of-way, and the night sky.

3.02.4.2 All light sources must be shielded from the direct, line of sight view of motorists.

3.02.4.3 Lighting of non-conforming signs is not permitted.

3.02.5 Non-Conforming Signs. Any sign in existence on the date of the adoption of these Regulations not in conformance with these Regulations shall either be eliminated or brought into conformance within three years from the date of adoption. Outdoor Advertising Signs are non-conforming under Article III Sect. 3.02.2.3, and shall be eliminated no later than the expiration of the current term of the Montana Department of Transportation Outdoor Advertising Sign Permit in force on the date of adoption of these Regulations. Non-conforming signs are further subject to the following requirements:

3.02.5.1 No action shall be taken to increase a sign's non-conformity. Changes in the information on the face of an existing non-conforming sign are allowed.

3.02.5.2 When any change, repair, or maintenance of an existing non-conforming sign would constitute an expense of more than 25% of the original cost of the sign, such non-conforming sign shall either be eliminated or brought into conformance.

For "Outdoor Advertising Signs" regulated by the Montana Department of Transportation, "Original Cost" shall mean the "Estimated Cost of Construction" listed in the Department of Transportation Outdoor Advertising Permit Application for the sign.

ARTICLE IV: DEFINITIONS

Section 1 Definitions.

1.01 Intent. To improve clarity and understanding of these Regulations, certain words and word combinations are defined herein.

1.02 Rules of Interpretation. Words and word combinations shall first carry the meaning defined herein, followed by the meaning defined in the Growth Policy, followed by the customary meaning as defined in Webster's Dictionary. Additionally:

1. the present tense shall include the future tense;
2. all words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise;
3. the word 'shall' indicates a mandatory action;
4. the word 'person' includes a firm, association, organization, partnership, trust, company, or corporation as well as the individual.

Section 2 Glossary.

-A-

Accessory Structure. A subordinate structure, or portion of the principal structure, located on the same lot as the principal building, which is customarily incidental to the principal structure. When part of an accessory structure is connected to a part of the principal structure by a common wall, such accessory structure shall be counted as part of the principal structure. Individual public utility installations aboveground are considered accessory buildings.

Agriculture. The use of the land for grazing or cropping to produce food, feed, and fiber commodities. Examples include, but are not limited to: cultivation and tillage of the soil; dairying and animal husbandry; growing and harvesting of agricultural and horticultural commodities; and the raising of livestock, bees or poultry; as well as post-harvest activities such as include uses such as farm stands and the sale of goods grown or produced as part of the agricultural operation. Does not include uses such as game farms, fur farms, animal hospitals, commercial dog kennels, horse stables, riding arenas, animal feeding operations or similar uses.

-D-

Dwelling. A structure or portion thereof providing permanent cooking, eating, sleeping and living facilities exclusively for human habitation.

-L-

Lighting, Direct. Illumination resulting from light emitted directly from the light source.

Lighting, Fully Shielded. (Also referred to as cutoff-type lighting) Any outdoor light fixture shielded in such a manner that all light emitted by the fixture (directly or indirectly) is projected below a horizontal plane running through the lowest point of the fixture where light is emitted.

Lighting, Indirect. Direct light that has been reflected or has scattered off other surfaces.

Lighting, Outdoor. The illumination of an outdoor area or object by a man-made device, permanently installed or portable, that produces light used for illumination, decoration, security, or advertisement.

Lighting, Partially Shielded. Any light fixture shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the lamp reducing light above the horizontal.

-N-

Non-Conforming Sign. Any sign lawfully existing on the effective date of a regulation, or amendment thereto, that does not conform to all the standards and regulations of the adopted or amended regulation.

-P-

Principal Use. The use of land or structures which constitutes the predominant use of a single property or group of properties in a contiguous area.

-S-

Sign. Any device, fixture, placard, or structure that uses form, graphic, illumination, symbol, or writing to advertise, announce the purpose of a person or entity or to communicate information of any kind to the public.

Sign Area. The area encompassing the entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure.

Sign Face. The area or display surface used for the message.

Sign, Outdoor Advertising. Outdoor Advertising Sign means any sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way or any portion of an interstate highway or primary highway that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

Sign, Permanent. A sign attached, anchored, or applied to a building, structure, or the ground in a manner requiring tools or equipment, and made of materials intended for more than a single years use.

Sign, Temporary. A sign or advertising display constructed of cloth, canvas, plywood, or other light material and designed or intended to be displayed for a short period of time.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

-V-

Variance. A provision which allows modification to a regulation or waiver of the general development and building standards when a literal enforcement would result in unnecessary or undue hardship and the granting of the variance is not contrary to the public's health, safety, and general welfare.

Vested Right. A right that cannot be changed or altered by changes in regulation.

-Z-

Zoning Enforcement Agent. The duly authorized agent appointed by the Planning and Zoning Commission for the purpose of administering and enforcing these Regulations.

ARTICLE V: EXHIBITS

Section 1 North Gallatin Canyon Zoning Map

1.01 Zoning Map. The North Gallatin Canyon Zoning District Map shall be the document prepared by the Gallatin County GIS and Planning Departments showing the extent of the North Gallatin Canyon Zoning District. The Map is dated 03 June 2009, and carries a title of North Gallatin Canyon Zoning District. The map is an integral part of these regulations, and by this reference is incorporated herein.